

(Sexol Tablets) that they were effective as an invigorating tonic and as a stimulant.

On February 3, 1939, pleas of nolo contendere having been entered, the court found the defendants guilty and imposed a fine of \$50.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30230. Adulteration and misbranding of Gay. U. S. v. Strong, Cobb & Co., Inc., Theodore S. Strong, Robert W. Hompe, Sterling S. McMillan and Robert C. Godfrey. Demurrer and motion to quash overruled. Pleas of nolo contendere by each of the defendants. Judgments of guilty as to Strong, Cobb & Co., Inc., and Theodore S. Strong. Judgments of not guilty as to remaining defendants. Corporation fined \$50. Theodore S. Strong fined \$25. (F. & D. No. 39741. Sample Nos. 15369-C, 27964-C, 27977-C.)

The labeling of this product bore false and fraudulent representations regarding its curative and therapeutic effects and false and misleading representations to the effect that it was harmless. One lot of the article contained acetophenetidin not declared on the label, and the other lot contained less acetophenetidin than declared.

On September 18, 1937, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Strong, Cobb & Co., Inc., a corporation, Cleveland, Ohio, and Theodore S. Strong, Robert W. Hompe, Sterling S. McMillan, and Robert C. Godfrey, officers of the said corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about September 25 and October 23, 1936, from the State of Ohio into the State of Pennsylvania of quantities of Gay which was misbranded, and one lot of which was also adulterated. The article was labeled in part: "Distributed by F. H. Fowles Co. Philadelphia."

Analysis of the product showed that it consisted essentially of aspirin, acetophenetidin (four samples examined contained 1.68, 1.63, 1.67, and 1.73 grains, respectively, per tablet), plant material, and caffeine.

One lot of the product was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that each of the tablets was represented to contain 2 grains of acetophenetidin; whereas each of said tablets contained less than 2 grains, namely, not more than 1.68 grains of acetophenetidin. The said lot was alleged to be misbranded in that the statement "Each tablet contains 2 Gr. Acetophenetidin (acetanilid derivative)," borne on the label, was false and misleading.

Both lots were alleged to be misbranded in that the article contained acetophenetidin (a derivative of acetanilid), and the label on the package failed to bear a statement of the quantity and proportion of acetophenetidin contained therein, since the statement made was incorrect in one instance and was absent in the other. Both lots were alleged to be misbranded further in that the statements "Gay contains no harmful drugs * * * may be used with utmost confidence," appearing in the labeling, were false and misleading in that they represented that the article contained no harmful drugs and could be used with utmost confidence; whereas the article did contain a harmful drug, namely, acetophenetidin (acetanilid derivative), which could not be used with the utmost confidence. Both lots were alleged to be misbranded further in that certain statements in the labeling regarding the curative and therapeutic effects of the article falsely and fraudulently represented that it was effective as a prompt relief from menstrual pain and effective in the treatment of menstrual pain due to normal causes.

On March 18, 1938, the defendants filed a demurrer to the information and a motion to quash, which were argued on May 30, 1938, and overruled as to each defendant without opinion. On February 3, 1939, the defendants entered pleas of nolo contendere and the court adjudged the defendants Strong, Cobb Co., Inc., and Theodore S. Strong to be guilty and imposed a fine of \$50 upon the former and \$25 upon the latter. The remaining defendants were found not guilty.

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